

Whatever the BOCs' final prices, the IXCs would undercut them by only a penny or two, because that is all it would take for the established IXCs' market shares to be preserved. The BOCs' market shares would likely be minuscule. The IXC oligopoly would be preserved. The "incentive to engage in price cutting" would be dramatically reduced. Congress's will would be frustrated.

G. The BOCs' Affiliates Could Not Dominate The Provision Of In-region, International Services

The Commission tentatively concludes that it should apply the same regulatory treatment for the BOC affiliates' provision of in-region, international services as it applies for the provision of in-region, interstate, domestic interLATA services. NPRM, para. 150. The Commission also notes, however, that there is a separate process -- adopted in the agency's Foreign Market Entry Order -- that may require particular BOC affiliates to be regulated as dominant on particular routes, depending on foreign carrier affiliations. NPRM, para 151; see also 47 C.F.R. Sec. 63.18(h). There are thus two prongs to the determination of the regulatory classification of a BOC affiliate offering international interLATA services, only one of which the Commission proposes to address at this time.

With respect to the first prong, we agree that, in general, if the BOCs' affiliates are nondominant for in-region domestic services, they are certainly nondominant for in-region international services. The opposite is not necessarily true, however -- the international market differs somewhat from the domestic market in three respects, and each suggest that BOC affiliates should be classified as nondominant for international interLATA services regardless of the determination made for domestic services. First, the U.S. international telecommunications

⁹⁰ *MCI Telecommunications Corp. v. AT&T*, 129 L.Ed.2d 182, 195 (1994).

market is far more concentrated than the domestic market, with only a handful of facilities-based carriers offering services. Second, while access costs are the major expense for domestic interLATA calls, access to satellite or fiber facilities are the single biggest expense for international services. Finally, BOCs are likely to procure most of their international facilities from consortiums led by AT&T. AT&T owns a significant share of transoceanic fiber and will be their biggest competitor. These factors suggest that the BOCs have even less power in the international marketplace than they do for domestic services.

With respect to the second prong, we agree that the existing rules governing dominance based on foreign market affiliations should apply to BOC affiliates as they apply to all other international carriers. However, we note that the Commission should act to ensure that route-by-route dominance rulings, based on foreign affiliations, be concluded no later than the grant of a §271 entry petition. This could either be done by beginning the process before §271 applications are filed or streamlining any required parallel §214 filings of BOC affiliates so that the information requested is not duplicative, and any comments filed thereon are limited to foreign affiliation issues rather than matters that will be settled by this rulemaking and by the §271 entry application itself.

IX. Independent LECs Should Comply With Current Separation Requirements Until All Separate Affiliate Requirements Are Eliminated (§§ 153-162)

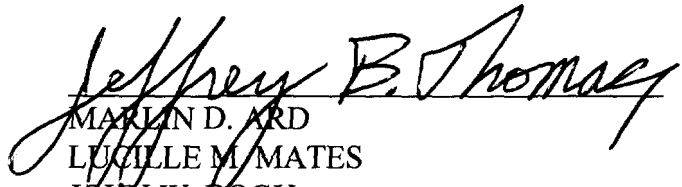
We believe the Commission's policy should be to assure that all interLATA competitors are subject to the same degree of regulation and meet the same safeguards. For the time being, this militates in favor of continuing to require structural separation for the interexchange affiliates of independent LECs to qualify for nondominant regulation.

Our region will be a magnet for competitors. California has relatively low basic rates, the lowest access charges in the nation, and therefore relatively high toll margins. As long as we must provide both in-region and out-of-region interLATA services through a separate affiliate to qualify for nondominant regulation, regulatory symmetry requires that independent LECs qualify for nondominant regulation only if they continue to offer interstate, interexchange services through separate affiliates. This would assure that all similarly situated LECs compete on the same footing. As we have pointed out above, there is no meaningful distinction in interLATA market power between BOCs and independent LECs.

X. Conclusion

For the reasons given, we urge the Commission to adopt the clarifications and policies presented above in a manner that treats the BOCs fairly in order to promote the orderly and rapid introduction of competition. Beyond that, we urge the Commission to give effect to the specific intent of Congress "to provide for a pro-competitive, de-regulatory national policy framework".

PACIFIC TELESIS GROUP

A handwritten signature in cursive script, reading "Jeffrey B. Thomas", is written over a horizontal line.

MARLIN D. ARD
LUCILLE M. MATES
JOHN W. BOGY
PATRICIA L. C. MAHONEY
JEFFREY B. THOMAS

140 New Montgomery Street, Room 1529
San Francisco, CA 94105

(415) 542-7661

Its attorneys

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